

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES

v.

MALEAK WILSON

)
) CR 2-39, CV 16-892
)

MEMORANDUM ORDER

In 2003, a jury convicted Defendant of violating 21 U.S.C. §§ 841 and 924(c). In 2005, he filed a Motion pursuant to 28 U.S.C. § 2255 ("Section 2255"), which was denied by Order dated May 22, 2006. Subsequently, on June 20, 2016, Defendant filed another Section 2255 Motion. This second Motion raised Johnson v. United States, 135 S. Ct. 2251 (2015), to challenge his sentence under the residual clause of the then-mandatory Guidelines. At Defendant's request, the proceeding was stayed, first pending permission from the Court of Appeals to file a second or successive petition, and then pending the outcome of a petition for certiorari in United States v. Green, 898 F. 3d 315 (3d Cir. 2018). In Green, our Court of Appeals held that Johnson did not, under Section 2255(f)(3), render timely a Johnson challenge to a mandatory Guidelines sentence. The Supreme Court denied certiorari. This Court lifted the stay and allowed Defendant an opportunity to supplement his Section 2255 Motion. No supplement was filed, and the record reflects no authorization from the Court of Appeals to pursue a second or successive petition. No hearing is required under applicable standards, and Defendant's Motion must be denied pursuant to Sections 2255(f) and (h).

Moreover, under 28 U.S.C. § 2253(c)(2), a "certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right." Defendant has not made such a showing, and jurists of reason would not find it debatable whether this Court's procedural ruling is correct.

AND NOW, this 31st day of October, 2019, IT IS SO ORDERED.

BY THE COURT:

A handwritten signature in black ink, reading "Donetta W. Ambrose". The signature is written in a cursive style with a horizontal line underneath the name.

Donetta W. Ambrose
Senior Judge, U.S. District Court